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ORIGINAL

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FILED
HARRISBURG

AUG 27 2001

MICHAEL NORWOOD,

Plaintiff,

v.

DONALD ROMINE,

Defendant.

Case No. 1:CV-01-1005

(Judge Caldwell)

(Magistrate Judge Smyser)

MARY E. D'ANDREA, CLE
Per gjx
DEPUTY CLERK

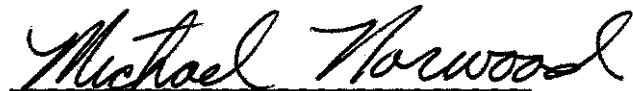
MOTION FOR ORDER DIRECTING THE U.S. MARSHAL TO SERVE SUMMONS
AND AMENDED COMPLAINT UPON THE DEFENDANT AND FOR ORDER DIRECTING
THE DEFENDANT TO BEAR THE COSTS OF SUCH SERVICE

COMES NOW, the plaintiff, MICHAEL NORWOOD, pro se, and respectfully moves this Court pursuant to Rule 4 of the Federal Rules of Civil Procedure for an order directing the U.S. Marshal to serve the summons and amended complaint upon the defendant and for an order directing the defendant to bear the costs of such service, on the ground that the plaintiff sent the defendant three copies of Notice of Lawsuit and Request for Waiver of Service of Summons form on July 24, 2001 (with copies of Amended Civil complaint, Waiver of Service of Summons form, Summons, and Notice of Judicial Assignment attached) and the defendant has failed to sign and return waiver of service of summons form to the plaintiff at the filing of the instant motion.

The plaintiff is unable to locate anyone willing or able to serve the summons and amended complaint upon the defendant. Copies of the "Notice of Lawsuit and Request for Waiver of Service of Summons" and "Waiver of Service of Summons", which were delivered to the defendant are hereto attached.

WHEREFORE, the plaintiff respectfully requests that the U.S. Marshal be directed to effect service in this case and that the defendant bear the costs of such service.

Respectfully submitted,


MICHAEL NORWOOD, Pro Se
P.O. BOX 1000
LEWISBURG, PA 17837

Dated: August 24, 2001

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Motion for Order Directing the U.S. Marshal to Serve Summons and Amended Complaint Upon the Defendant and for Order Directing the Defendant to Bear the Costs of Such Service was mailed to Donald Romine, Warden, U.S Penitentiary, RD #5, Lewisburg, Pa 17837, by placing same in a postage prepaid envelope and inserting same in a U.S. mail box this 24th day of August, 2001.


MICHAEL NORWOOD

NOTICE OF LAWSUIT
AND
REQUEST FOR WAIVER OF SERVICE OF SUMMONS

TO: DONALD ROMINE

Name of individual defendant (or name of officer or agent of corporate defendant)

AS: _____ OF _____

(Title, or other relationship of individual _____ (Name of corporate defendant)
to corporate defendant)

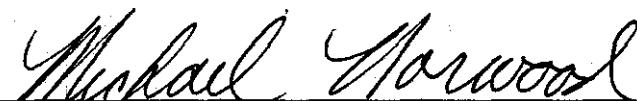
A lawsuit has been commenced against you (or the entity on whose behalf you are addressed). A copy of the complaint is attached to this notice. It has been filed in the United States District Court for the Middle District of Pennsylvania. The assigned docket number for this case is 1:CV-01-1005.

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost serving you with a judicial summons and an additional copy of the complaint. The cost of service will be avoided if I receive a signed copy of the waiver within 30 days (at least 30 days, 60 days if located in a foreign country) after the date designated below as the date on which this Notice and Request is sent. I enclose a stamped and addressed envelope (or other means of cost-free return) for your use. An extra copy of the waiver is also attached for your records.

If you comply with this request and return the signed waiver, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except that you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from that date if your address is not in any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, as authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of summons, which is set forth in this packet captioned, "Duty to Avoid Unnecessary Costs of Service of Summons."

I affirm that this request is being sent to you on behalf of the plaintiff, this 24th day of July, 2001.



Signature of Plaintiff's Attorney or Pro Se Plaintiff

DUTY TO AVOID UNNECESSARY COSTS OF SERVICE OF SUMMONS

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant who, after being notified of an action and asked to waive service of a summons, fails to do so will be required to bear the costs of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver was received.

WAIVER OF SERVICE OF SUMMONS

TO: MICHAEL NORWOOD
(Name of plaintiff's attorney or pro se plaintiff)

I acknowledge receipt of your request that I waive service of a summons in the action of MICHAEL NORWOOD vs. DONALD ROMINE, which is case number 1:CV-01-1005 in the United States District Court for the Middle District of Pennsylvania. I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for the objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after July 24, 2001 (date request was sent), or within 90 days after that date if the request was sent outside the United States.

Date

Signature

Printed/Typed Name:

Title if any:

Address:

For Corporation, if any:

Representing defendant(s) if any:

MICHAEL NORWOOD, #06970-014
UNITED STATES PENITENTIARY
P. BOX 1000
WISBURG, PA 17837

FILED
HARRISBURG

AUG 8 7 2001

MARY E. D'ANDREA, CLERK
Per _____
DEPUTY CLERK

CLERK: U.S. DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA
228 WALNUT STREET, P.O. BOX
HARRISBURG, PA 17108